

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NICE SYSTEMS, INC. and
NICE SYSTEMS LTD.,

Plaintiffs,

v.

Civil Action No. 06-311-JJF

WITNESS SYSTEMS, INC.,

Defendant.

**WITNESS SYSTEMS, INC.'S MOTION TO STRIKE PLAINTIFFS' SECOND AND
THIRD SUPPLEMENTAL OBJECTIONS AND RESPONSES TO WITNESS SYSTEMS,
INC.'S INTERROGATORY NOS. 17 AND 18 AND TO PRECLUDE
PLAINTIFFS' USE OF EVIDENCE RELATED THERETO**

Pursuant to Rules 16, 26 and 37 of the Federal Rules of Civil Procedure, Defendant Witness Systems, Inc. ("Witness Systems") moves the Court to enter an Order (a) striking Plaintiffs NICE Systems, Inc. and NICE Systems, Ltd.'s (collectively, "NICE") supplemental responses to Witness Systems' interrogatories (served on August 2 and August 10, 2007); (b) precluding NICE from introducing at trial any evidence seeking to establish conception and reduction to practice dates prior to the filing priority dates of each of the patents-in-suit; and (c) granting such other relief as the Court deems just, proper, and equitable.

Witness Systems, Inc.'s Brief in Support of this Motion, the Declaration of Kyle Wagner Compton in Support of this Motion, and accompanying supporting exhibits are filed contemporaneously herewith.

Dated: September 7, 2007

FISH & RICHARDSON P.C.

By: /s/ Kyle Wagner Compton

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ATTORNEYS FOR DEFENDANT

WITNESS SYSTEMS, INC.

LOCAL RULE 7.1.1 CERTIFICATION

Pursuant to D. Del. Local Rule 7.1.1, Defendant Witness Systems, Inc. certifies that it has sought the agreement of Plaintiffs NICE Systems, Inc. and NICE Systems Ltd. (collectively, “NICE”) to withdraw the supplemental responses to interrogatories that are the subject of this motion. NICE has not agreed to withdraw the supplemental responses.

/s/ Kyle Wagner Compton

Kyle Wagner Compton (#4693)

Dated: September 7, 2007

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of September, 2007, I electronically filed with the Clerk of Court the foregoing **WITNESS SYSTEMS, INC.'S MOTION TO STRIKE PLAINTIFFS' SECOND AND THIRD SUPPLEMENTAL OBJECTIONS AND RESPONSES TO WITNESS SYSTEMS, INC.'S INTERROGATORY NOS. 17 AND 18 AND TO PRECLUDE PLAINTIFFS' USE OF EVIDENCE RELATED THERETO** using CM/ECF which will send electronic notification of such filing(s) to the below-listed Delaware counsel. In addition, the filing will also be sent via hand delivery.

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*Attorneys for Plaintiffs
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I also certify that on September 7, 2007, I have sent by electronic mail and U.S. First Class Mail, the document(s) to the following non-registered participants:

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/s/Kyle Wagner Compton
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NICE SYSTEMS, INC. and
NICE SYSTEMS LTD.,

Plaintiffs,

v.

WITNESS SYSTEMS, INC.,

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Civil Action No. 06-311-JJF

**ORDER GRANTING WITNESS SYSTEMS, INC.'S MOTION TO STRIKE
PLAINTIFFS' SECOND AND THIRD SUPPLEMENTAL OBJECTIONS AND
RESPONSES TO WITNESS SYSTEMS, INC.'S INTERROGATORY NOS. 17 AND 18
AND TO PRECLUDE PLAINTIFFS' USE OF EVIDENCE RELATED THERETO**

Having considered Witness Systems, Inc.'s Motion to Strike Plaintiffs' Second and Third Supplemental Objections and Responses to Witness Systems, Inc.'s Interrogatory Nos. 17 and 18 and to Preclude Plaintiffs' Use of Evidence Related thereto, IT IS HEREBY ORDERED THAT:

The Motion is GRANTED:

(1) Plaintiffs' Second and Third Second and Third Supplemental Objections and Responses to Witness Systems, Inc.'s Interrogatory Nos. 17 and 18 (served August 2 and August 10, 2007) are stricken; and

(2) Plaintiffs are precluded from presenting at trial any evidence seeking to establish conception and reduction to practice dates prior to the filing priority dates of each of the patents-in-suit.

This _____ day of October, 2007.

Joseph J. Farnan, Jr.
United States District Judge